

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDWIN B. STEARNS, JR.,

Plaintiff,

V.

KATHERINE R. STEARNS, *et al.*,

Defendants.

Case No. C22-1579RSL

**ORDER OF DISMISSAL
WITHOUT LEAVE TO
AMEND**

On January 23, 2023, this Court issued an Order of Dismissal (Dkt. # 28), dismissing plaintiff's complaint for lack of subject matter jurisdiction. The Court provided plaintiff with thirty (30) days from the filing of the Order of Dismissal to file an amended complaint curing the deficiencies identified in the Order. The Court further noted that if plaintiff failed to cure the identified deficiencies in his second Amended Complaint, the Court would dismiss without leave to amend.

A federal court may dismiss an action on its own motion if it finds that it lacks subject matter jurisdiction over the action. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983); see also Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). A court, however, “has an obligation to warn the plaintiff that dismissal is imminent.” *Oliva v. Sullivan*, 958 F.2d 272, 274 (9th Cir. 1992). A court may dismiss an action without leave to amend where it is clear that “the complaint could not be saved by amendment.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003); see also *Chaset v. Fleer/Skybox Int'l, LP*, 300 F.3d 1083, 1087-88 (9th Cir. 2002).

The thirty days provided to plaintiff to amend his complaint have now passed, and plaintiff has failed to file an amended complaint. Additionally, this is the second time the Court has warned plaintiff that the Court lacks subject matter jurisdiction over his claims. *See* Dkt. # 13 (sua sponte order issued by the Court ordering plaintiff to show cause why his complaint should not be dismissed for lack of subject matter jurisdiction). The facts as pleaded do not give rise to jurisdiction, and no amendment will cure this deficiency. Accordingly, the Court dismisses plaintiff's Amended Complaint without leave to amend.

For all the foregoing reasons, plaintiff's Amended Complaint is dismissed for lack of subject matter jurisdiction without leave to amend. The Clerk of Court is directed to enter judgment against plaintiff and in favor of defendants. IT IS SO ORDERED.

DATED this 23rd day of February, 2023.

Mrs Lasnik
Robert S. Lasnik
United States District Judge